

# TILLMAN & TILLMAN

A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS

David K. Tillman  
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June 05, 2006

DEPT. OF  
ATTORNEY GENERAL

JUN 06 2006

INSURANCE & BANKING  
RECEIVED

Christopher L. Kerr, Esq.  
Assistant Attorney General  
Department of Attorney General, Insurance & Banking Division  
P.O. Box 30212  
Lansing, MI 48909

Re: **OFIS v Ultimed HMO of Michigan, Inc.**  
**Ingham County Circuit Court Case No. 05-1472-CR**

Dear Mr. Kerr:

Enclosed please find a copy of Respondent's Supplemental Motion in Support of Motion for Reconsideration of the Court's May 10, 2006 Order Denying Motion for Approval of Payment of Ultimed's Directors' Professional Fees and Costs Under MCLA 500.8116(1) in the above-referenced matter, together with Proof of Service. As you know, the motion is scheduled for hearing on Wednesday, June 14, 2006 @ 10:00am.

Very truly yours,



David K. Tillman

/hj  
Encls

STATE OF MICHIGAN  
IN THE INGHAM COUNTY CIRCUIT COURT

**LINDA A. WATTERS, COMMISSIONER,  
MICHIGAN DEPARTMENT OF LABOR  
AND ECONOMIC GROWTH, OFFICE OF  
FINANCIAL AND INSURANCE  
SERVICES,**

Petitioner,

Case No. 051472-CR  
Hon. William E. Collette

-vs-

**ULTIMED HMO OF MICHIGAN, INC.,** a  
Michigan health maintenance organization,

Respondent.

---

**Michael A. Cox**  
**Attorney General**  
By: E. John Blanchard P28881  
Christopher L. Kerr P57131  
Assistant Attorneys General  
**Attorneys for the Commissioner of the  
Office of Financial and Insurance Services**  
Department of Attorney General, Insurance &  
Banking Division  
P.O. Box 30212  
Lansing, MI 48909  
517-373-1160

**Tillman & Tillman, P.C.**  
By: David K. Tillman P37592  
**Attorneys for Respondent**  
3400 Russell St., Ste. 205  
Detroit, MI 48207-2018  
313-832-6000

**SUPPLEMENTAL MOTION IN SUPPORT OF MOTION FOR RECONSIDERATION OF THE  
COURT'S MAY 10, 2006 ORDER DENYING MOTION FOR APPROVAL OF PAYMENT OF  
ULTIMED'S DIRECTORS' PROFESSIONAL FEES AND COSTS  
UNDER MCLA 500.8116(A)**

The Board of Directors of respondent Ultimed HMO of Michigan, Inc. ("Ultimed's directors"), by its attorneys, **Tillman & Tillman, P.C.**, submits its Supplemental Motion in Support of Motion for Reconsideration of the Court's May 10, 2006 Order Denying Motion for Approval of Payment of Ultimed's Directors' Professional Fees and Costs Under MCLA 500.8116(A) as follows:<sup>1</sup>

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<sup>1</sup> Unless the Court otherwise directs, no response to the motion may be filed, and there is no oral argument. MCR 2.119(F)(2).

26. Ultimed's directors' counsel served Mr. Gerber with all requested billing/accounting records on April 24, 2006. Subsequently, in its response to Ultimed's directors' original underlying motion, OFIS conceded that Mr. Gerber indeed retrieved (himself) all of counsel's invoices submitted for the seven (7) year period through 2005; obviously, the records he retrieved included those produced by counsel on April 24. As such, Mr. Gerber's April 20, 2006 letter requesting copies of such documents reflected his disinclination to simply attempt to locate such documents himself (before seeking duplicate copies thereof from counsel), or to simply harass counsel and/or needlessly burden him.

27. Over the ensuing six (6) week period, Mr. Gerber has not notified counsel of any determination that Ultimed made any preferential payments to him under MCLA 500.8128. Accordingly, given that no determination has been made, this court should assume, for the purposes of deciding the underlying motion, that no such determination will be made.

28. In addition to recovery of the original amount sought, namely, \$4,986.66, Ultimed's directors and their counsel have incurred *significant additional* expenses in connection with his motion and (now) duplicate hearings thereon, for which recovery should be awarded as well.

29. Attached to Ultimed's directors' original motion (as Exhibit B) is a report detailing the professional fees and incidental expenses reasonably incurred in opposing OFIS's liquidation petition. The following chart includes all amounts requested in Ultimed's directors' original motion, and summarizes the additional expenses incurred for which recovery should be allowed as well, as follows:

	<b>Original</b> (03/16/06 - 04/11/06)	<b>Additional</b> (04/12/06 - 05/31/06) <sup>2</sup>
Professional Fees:	\$4,580.00	\$3,080.00
Incidental Costs:	<u>406.66</u>	<u>274.44</u>
<b>Sub-totals:</b>	<b>\$4,986.66</b>	<b>\$3,354.44</b>

**Grand Total:            \$4,986.66 + \$3,354.44 = \$8,341.10**

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<sup>2</sup> The additional expenses incurred run only through May 31, 2006; Ultimed's directors respectfully request that their counsel be compensated for all expenses incurred through the date on which payment is made.

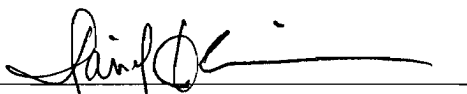
A printout reflecting the expenses incurred from April 12, 2006 to May 31, 2006 is attached hereto as Exhibit H.

30. All of the additional expenses sought have been incurred as a direct result of OFIS's unreasonable refusal to approve counsel's payment request and the Court's palpable error committed May 10, 2006. As such, this Court should order OFIS to make payment to Ultimed's directors' counsel in an amount totaling \$8,341.10 under MCLA 500.8116(1).

THEREFORE, the Board of Directors of Ultimed HMO of Michigan, Inc. respectfully requests that the Court (1) grant their Motion for Reconsideration of the Court's May 10, 2006 Order Denying Motion for Approval of the Payment of Professional Fees and Costs Under MCLA 500.8116(1), (2) set aside its Order Denying Motion for Approval of the Payment of Professional Fees and Costs Under MCLA 500.8116(1), and (3) enter an Order Approving Payment of Ultimed's Directors' Professional Fees and Costs Under MCLA 500.8116(1), in the amount of \$8,341.10, plus additional amounts incurred in connection with this effort (through the date on which payment is made), and providing that such amount be paid within 14 days of the date of the Court's Order.

Respectfully submitted,

**Tillman & Tillman, P.C.**

By:   
David K. Tillman P37592  
3400 Russell, Suite 205  
Detroit, MI 48207  
313-832-6000

**Attorneys for the Directors of Respondent Ultimed HMO  
of Michigan, Inc.**

Dated: June 2, 2006

STATE OF MICHIGAN  
IN THE INGHAM COUNTY CIRCUIT COURT

**LINDA A. WATTERS, COMMISSIONER,  
MICHIGAN DEPARTMENT OF LABOR  
AND ECONOMIC GROWTH, OFFICE OF  
FINANCIAL AND INSURANCE  
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Petitioner,

Case No. 051472-CR  
Hon. William E. Collette

-vs-

**ULTIMED HMO OF MICHIGAN, INC.,** a  
Michigan health maintenance organization,

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**Michael A. Cox**  
**Attorney General**  
By: E. John Blanchard P28881  
Christopher L. Kerr P57131  
Assistant Attorneys General  
**Attorneys for the Commissioner of the  
Office of Financial and Insurance Services**  
Department of Attorney General, Insurance &  
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P.O. Box 30212  
Lansing, MI 48909  
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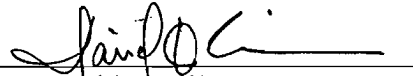
**Tillman & Tillman, P.C.**  
By: David K. Tillman P37592  
**Attorneys for Respondent's Directors**  
3400 Russell St., Ste. 205  
Detroit, MI 48207-2018  
313-832-6000

**PROOF OF SERVICE**

David K. Tillman certifies that on June 05, 2006, he served a correct copy of Respondent's Supplemental In Support of Motion for Reconsideration of the Court's May 10, 2006 Order Denying Motion for Approval of Payment of Ultimed's Directors' Professional Fees and Costs Under MCLA 500.8116(1) upon the following by enclosing a copy of said pleading in an envelope addressed to him and depositing it, postage pre-paid, into a receptacle of the U.S. Postal Service in Detroit, Michigan:

Christopher L. Kerr, Esq.  
Assistant Attorney General  
Department of Attorney General, Insurance &  
Banking Division  
P.O. Box 30212  
Lansing, MI 48909

Signature

  
David K. Tillman

## **EXHIBIT A**

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TILLMAN & TILLMAN, P.C.  
Slip Listing

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Selection Criteria

Slip Classification Open  
Slip Date 4/12/2006 - Latest  
Client (hand select) Include: Ultimed. Post-Rehab  
Reference (hand s) Include: OFIS

Rate Info - identifies rate source and level

Slip ID	Dates and Time	Posting Status	Description	Timekeeper Activity	Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
28825	EXP			David		46	0.25	11.50
	4/12/2006			Photocopies In-house				
	Billed	G:11914	5/2/2006	Ultimed. Post-Rehab				
			Photocopies In-house	OFIS				
28901	TIME			David		0.40	200.00	80.00
	4/12/2006			Time		0.00	T@1	
	Billed	G:11914	5/2/2006	Ultimed. Post-Rehab				
			Drafted proposed Stipulated Order re	OFIS		0.00		
			Payment of Ultimed's Directors' Professional					
			Fees and Costs.					
28807	EXP			David		1	20.00	20.00
	4/13/2006			Court filing fees				
	Billed	G:11914	5/2/2006	Ultimed. Post-Rehab				
			Court filing fees	OFIS				
28896	TIME			David		0.40	200.00	80.00
	4/13/2006			Time		0.00	T@1	
	Billed	G:11914	5/2/2006	Ultimed. Post-Rehab				
			Receipt and review of copy of Notice of	OFIS		0.00		
			Court Order to Liquidate; attention to					
			calendaring deadline for filing Proof of Claim.					
28836	EXP			David		12	0.25	3.00
	4/18/2006			Photocopies In-house				
	Billed	G:11914	5/2/2006	Ultimed. Post-Rehab				
			Photocopies In-house	OFIS				
28837	EXP			David		62	0.25	15.50
	4/18/2006			Photocopies In-house				
	Billed	G:11914	5/2/2006	Ultimed. Post-Rehab				
			Photocopies In-house	OFIS				
28870	EXP			David		1	0.87	0.87
	4/18/2006			Postage				
	Billed	G:11914	5/2/2006	Ultimed. Post-Rehab				
			Postage	OFIS				



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Slip Listing

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Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client		Bill Status	
Description	Reference	Variance		
				(80.00)
28942	TIME	David	1.00	200.00
4/18/2006	Time	Time	0.00	T@1
Billed	G:11914	5/2/2006	Ultimed. Post-Rehab	
Review of file re matter status and strategy;	OFIS	0.00		
drafted letter to Mr. Kerr re matter status and strategy; attention to submission of proposed Stipulated Order Approving the Payment of Ultimed's Directors' Professional Fees and Costs as Provided in MCLA 500.8116(1); revisions to proposed Motion for Approval of ayment of Ultimed's Directors' Professional Fees and Costs as Provided in MCLA 500.8116(1).				(300.00)
28909	TIME	David	1.00	200.00
4/21/2006	Time	Time	0.00	T@1
Billed	G:11914	5/2/2006	Ultimed. Post-Rehab	
Receipt and review of correspondence from Mr. Gerber re counsel's request for liquidation defense expenses; review of accounting records re Mr. Gerber's request; e-mail to Mr. Kerr re matter status and strategy; drafted letter to Mr. Kerr re matter status and strategy.	OFIS	0.00		
28960	EXP	David	5	0.25
4/24/2006	Photocopies In-house	Photocopies In-house		1.25
Billed	G:11914	5/2/2006	Ultimed. Post-Rehab	
Photocopies In-house	OFIS			

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TILLMAN & TILLMAN, P.C.  
Slip Listing

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Slip ID	Dates and Time	Posting Status	Description	Timekeeper Activity	Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value		
28966	4/24/2006	EXP	Billed Postage	G:11914	5/2/2006	David Postage	Ultimed. Post-Rehab OFIS	1	0.63	0.63
29058	5/1/2006	EXP	WIP Postage			David Postage	Ultimed. Post-Rehab OFIS	1	2.07	2.07
29057	5/1/2006	EXP	WIP Postage			David Postage	Ultimed. Post-Rehab OFIS	1	4.05	4.05
29025	5/1/2006	TIME	WIP			David Time	Ultimed. Post-Rehab OFIS	0.70 0.00	200.00 T@1	140.00
Final revisions to Ultimed's Motion for Approval of Payment of Ultimed's Directors' Professional Fees and Costs as Provided in MCLA 500.8116(1); attention to filing and service.									0.00	
29043	5/1/2006	EXP	WIP Photocopies In-house			David Photocopies In-house	Ultimed. Post-Rehab OFIS	231	0.25	57.75
29082	5/4/2006	TIME	WIP			David Time	Ultimed. Post-Rehab OFIS	0.30 0.00	200.00 T@1	60.00
Telephone call from petitioner's counsel in which he requested a one week adjournment of respondent's directors' counsel's motion for approval of attorney fees, to which I responded that (1) I have a schedule conflict on May 17, and (2) that petitioner has not made respondent any offer whatsoever on his fee request--despite Judge Collette's express ruling that counsel is entitled to be paid for his work.									0.00	
29105	5/8/2006	TIME	WIP			David Time	Ultimed. Post-Rehab OFIS	0.80 0.00	200.00 T@1	160.00
Receipt and review of Petitioner's Response in Opposition to Motion for Approval of Payment of Ultimed's Directors' Professional Fees and Costs Under MCLA 500.8116(A).									0.00	

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TILLMAN & TILLMAN, P.C.  
Slip Listing

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client		Bill Status	
Description		Reference	Variance		
29127	EXP	David	43	0.50	21.50
5/8/2006		Fax Charges			
WIP		Ultimed. Post-Rehab			
Fax Charges		OFIS			
29114	TIME	David	1.00	200.00	200.00
5/9/2006		Time	0.00	T@1	
WIP		Ultimed. Post-Rehab			
Telephone calls from and to Mr. Kerr re		OFIS	0.00		
computer equipment issues; conference with					
Messrs. Brown and Lane re matter status					
and strategy; preparation fo hearing on					
attorney fee issues.					
29172	TIME	David	4.80	200.00	960.00
5/10/2006		Time	0.00	T@1	
WIP		Ultimed. Post-Rehab			
Appearance before the Court on Ultimed's		OFIS	0.00		
Directors' Motion for Approval of Payment of					
Ultimed's Directors' Professional Fees and					
Costs Under MCLA 500.8116(1); telephone					
calls from Mr. Brown and Ms. Barclay re					
issues associated with computer equipment					
belonging to AMS that the Special Deputy					
Liquidator removed from the premises;					
telephone calls from Mr. Brown, Ms. Barclay					
and Mr. Lane re issues associated with					
OFIS's removal of non-Ultimed documents					
and computer equipment.					
29173	EXP	David	160	0.445	71.20
5/10/2006		Mileage			
WIP		Ultimed. Post-Rehab			
Mileage		OFIS			
29194	TIME	David	1.00	200.00	200.00
5/11/2006		Time	0.00	T@1	
WIP		Ultimed. Post-Rehab			
Conference with Ms. Barclay and telephone		OFIS	0.00		
call from Mr. Brown re issues associated					
with OFIS's threatened allegation of their					
receipt of preferential payments; receipt and					
review of true copy of Orders (1) Substituting					
Redacted Copies of Exhibits, and (2)					
Denying Motion for Approval of Payment of					
Ultimed's Directors' Professional Fees and					
Costs Under MCLA 500.8116(A); attention to					
calendaring deadline by which motion for					
reconsideration must be filed.					

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Slip Listing

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client		Bill Status	
Description		Reference	Variance		
29205	TIME	David	1.30	200.00	260.00
5/15/2006		Time	0.00	T@1	
WIP		Ultimed. Post-Rehab			
Revisions to Ultimed's Directors' Motion for		OFIS	0.00		
Reconsideration of the Court's May 10, 2006					
Order Denying Motion for Approval of					
Payment of Ultimed's Directors' Professional					
Fees and Costs Under MCLA 500.8116(1).					
29160	EXP	David	1	20.00	20.00
5/15/2006		Court filing fees			
WIP		Ultimed. Post-Rehab			
Court filing fees		OFIS			
29253	TIME	David	1.00	200.00	200.00
5/16/2006		Time	0.00	T@1	
WIP		Ultimed. Post-Rehab			
Final revisions to Motion for Reconsideration		OFIS	0.00		
of the Court's Order Denying Ultimed's					
Directors' Motion for Approval of Payment of					
Professional Fees and Costs Pursuant to					
MCL 500.8116(1); telephone call from Mr.					
Brown re matter status and strategy;					
attention to filing and service of same.					
29211	TIME	David	1.40	200.00	280.00
5/16/2006		Time	0.00	T@1	
WIP		Ultimed. Post-Rehab			
Revisions to Ultimed's Directors' Motion for		OFIS	0.00		
Reconsideration of the Court's May 10, 2006					
Order Denying Motion for Approval of					
Payment of Ultimed's Directors' Professional					
Fees and Costs Under MCLA 500.8116(1);					
attention to filing and service of same;					
telephone call from Mr. Brown re matter					
status and strategy; revisions to Motion for					
Reconsideration as appropriate; drafted					
Affidavit of Mr. Harley K. Brown; attention to					
filing and service of same.					
29154	EXP	David	1	2.07	2.07
5/16/2006		Postage			
WIP		Ultimed. Post-Rehab			
Postage		OFIS			
29153	EXP	David	1	4.05	4.05
5/16/2006		Postage			
WIP		Ultimed. Post-Rehab			
Postage		OFIS			

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Slip Listing

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Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client		Bill Status	
Description	Reference	Variance		
29145 EXP	David	156	0.25	39.00
5/16/2006	Photocopies In-house			
WIP	Ultimed. Post-Rehab			
Photocopies In-house	OFIS			
29230 TIME	David	0.30	200.00	60.00
5/18/2006	Time	0.00	T@1	
WIP	Ultimed. Post-Rehab			
Telephone call from Judge Collette's	OFIS	0.00		
chambers advising us of need to schedule				
oral argument on Motion for Reconsideration				
of the Court's Order Denying Ultimed's				
Directors' Motion for Approval of Payment of				
Professional Fees and Costs Pursuant to				
MCL 500.8116(1); attention to re-noticing				
hearing on such motion.				
Grand Total				
	Billable	17.30		3734.44
	Unbillable	0.00		0.00
	Total	17.30		3734.44

Total Additional Time\* \$3,734.44  
- 380.00  
\$3,354.44